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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,550	05/21/2007	Giovanni Stefani	292784US6PCT	9838
22850	7590	12/09/2010		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
YABUT, DANIEL D				
ART UNIT		PAPER NUMBER		
3656				
NOTIFICATION DATE		DELIVERY MODE		
12/09/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/583,550

**Applicant(s)**

STEFANI, GIOVANNI

**Examiner**

DANIEL YABUT

**Art Unit**

3656

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 16 November 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 25, 35, 36.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/Richard WL Ridley/  
Supervisory Patent Examiner, Art Unit 3656

/DANIEL YABUT/  
Examiner, Art Unit 3656

Continuation of 11, does NOT place the application in condition for allowance because: In response to Applicant's argument that Kiczek does not disclose "a crank mechanism set between the slide and the frame", this limitation does not specify or define particular structure of the crank mechanism. As such, the recitation is sufficiently broad such that element 14 meets the respective claim limitation. Element 14 is indeed a crank structure located between the slide (near 36; Fig. 3) and frame (12) as seen in Figure 4.

In response to Applicant's argument that Kiczek et al. does not disclose the claimed control rod "connectable with the first pedal for actuating a braking device of the motor vehicle", the control rod (at 54, 36) is indeed integrally connected to the first pedal (see in Figure 4) such that the pedal is allowed to function as intended by actuating a braking device (C4 / L18-21; C10 / L39-45). As such, the aforementioned claim limitation is sufficiently broad such that it does not structurally distinguish the invention over the prior art.

In response to Applicant's argument that the first pedal 14 of Kiczek et al. is not "rotatably mounted on the slide for oscillating about a second axis of fulcrum" and further that the third clamp (44, 50) does not selectively block such non-existent rotation, column 7, lines 11-49 describes the sliding operation of the first pedal 14 along the first guide (18, 20) via the "disengagement of tooth 53 of pawl section 52 from gear sector 54." Further, column 5, lines 2-5 recites that the "upper portion 12a is adapted for pivotal attachment of the lower pedal arm 14 to the mounting bracket." One of ordinary skill in the art would recognize that the pedal 14 and slide (at 18,20) are capable of a sliding operation in a disengaged mode because the aforementioned "pivotal attachment" allows this movement to occur. One of ordinary skill in the art would also recognize that when the third clamp (44, 50) is engaged, as described in column 7 lines 11-49, this inherently blocks the first pedal 14 from moving angularly. As such, the aforementioned claim limitation is sufficiently broad such that it does not structurally distinguish the invention over the prior art.